

TYPE
NOV 26 2004
TRADEMARKS

MAIL STOP AMENDEMENT
Attorney Docket No. 24544Y

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

LEGRO et al.

Serial No. 10/765,475

Filed: January 28, 2004

For: **PROTECTION OF GERMINATING SEED AND PILLS CONTAINING
PESTICIDES**

TRANSMITTAL LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

Submitted herewith for filing in the U.S. Patent and
Trademark Office is the following:

- (1) Transmittal Letter; and
- (2) Response to Restriction Requirement.

Respectfully submitted,

NATH & ASSOCIATES PLLC

By: 

Gary M. Nath
Registration No. 26,965
Tanya E. Harkins
Registration No. 52,993
Customer No. 20529

Date: November 26, 2004
NATH & ASSOCIATES PLLC
1030th 15TH Street, NW - 6th Floor
Washington, D.C. 20005
GMN/TEH t1



IFW

MAIL STOP AMENDMENT
Attorney Docket No. 24544Y

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

LEGRO et al.

Examiner: A. Valenti

Serial No.: 10/765,475

Art Unit: 3643

Filed: January 28, 2004

For: **PROTECTION OF GERMINATING SEED AND PILLS CONTAINING
PESTICIDES**

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This is in response to the Official Action dated October 29, 2004. The one-month shortened statutory period for response is set to expire November 29, 2004. Accordingly, this Response is filed within the period for reply set by the Examiner.

SUMMARY OF RESTRICTION REQUIREMENT

The Examiner has required restriction of claims 1-11 under 35 U.S.C. §121 and §372 to a single invention encompassed by the claims as follows:

- I. Claims 1-8, drawn to a method for protection of germinating seed and a pesticide containing pellet. The special technical feature of this group is that the pesticide is located around a core.

- II. Claims 9 and 11, drawn to a method for preparing a pesticide-containing pellet. The special technical feature of this group is that the pesticide is in a thin layer coating on the outside of the pellet.
- III. Claim 10, drawn to method for preparing a pesticide-containing pellet. The special technical feature of this group is a layer of film on the outside of the killed seed.

ELECTION

Applicants provisionally elect Group I, claims 1-8, drawn to a method for protection of germinating seed and a pesticide containing pellet.

TRAVERSAL

Applicants respectfully traverse the Examiner's restriction requirement for the following reasons.

The restriction requirement is improper because it omits "an appropriate explanation" as to the existence of a "serious burden" if a restriction were not required. (MPEP § 803). An examination of all the claims in this application would not pose a serious burden because a search of the inventions of each of Groups I, II and III would require searching the prior art areas appropriate to the other Group. Accordingly, it would not pose a serious burden on the Examiner to search Groups I, II and III.

Additionally, applicants have paid a filing fee for an

examination of all the claims in this application. If the Examiner refuses to examine the claims paid for when this application was filed, applicants must pay duplicative fees to file divisional applications for the non-elected or withdrawn groups of claims.

CONCLUSION

In view of the foregoing, applicants respectfully request the Examiner to reconsider and withdraw the restriction requirement and to examine claims 1-11 pending in this application.

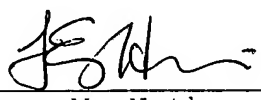
If the Examiner has any questions or wishes to discuss this matter, the Examiner is welcomed to telephone the undersigned attorney.

Respectfully submitted,

NATH & ASSOCIATES PLLC

Date: Nov. 26, 2004

NATH & ASSOCIATES PLLC
1030 Fifteenth Street, N.W.
Sixth Floor
Washington, D.C. 20005-1503
Tel: (202) 775-8383
Fax: (202) 775-8396
GMN:THE:restrict.roa.doc



Gary M. Nath
Reg. No. 26,965
Tanya E. Harkins
Reg. No. 52,993
Customer No. 20529